

MINUTES OF A MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEE (B) HELD IN COUNCIL CHAMBER, CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON THURSDAY, 8 DECEMBER 2016 AT 10.00 AM

Present

Councillor DRW Lewis – Chairperson

PA Davies E Dodd

Officers:

Kate Amos	Trainee Solicitor
Andrea Lee	Senior Lawyer
Andrew Rees	Senior Democratic Services Officer - Committees
Helen Williams	Senior EHO Pollution
Yvonne Witchell	Team Manager Licensing

34. DECLARATIONS OF INTEREST

None.

35. LICENSING ACT 2003: SECTION 51 APPLICATION FOR REVIEW OF PREMISES LICENCE KING ALFRED INN, 1 COMMERCIAL STREET, MAESTEG

The Team Manager Licensing reported on an application for a review of the premises licence submitted by the Neighbourhood Services Department of Shared Regulatory Services in relation to the premises known as the King Alfred Inn, 1 Commercial Street, Maesteg. She stated that the Premises Licence Holder is David Lippiatt and the licence authorised the supply of alcohol and regulated entertainment Monday to Sunday 1000 – 0200 hours. The Team Manager Licensing informed the Sub-Committee that the application had been advertised in accordance with the regulations and representations had been received from South Wales Police. She also informed the Sub-Committee that additional documents had been served by Emma Aston, Neighbourhood Services Officer of Shared Regulatory Services which confirmed that complaints regarding noise nuisance due to amplified music and speech continued from the premises. The Premises Licence Holder and Designated Premises Supervisor had been informed that in addition to the ongoing prosecution and review of the Premises Licence, the Department was considering obtaining a warrant to seize sound making equipment should further breaches be witnessed. Witness Statements had also been served by South Wales Police.

The Neighbourhood Services Officer informed the Sub-Committee that discussions had taken place with the Premises Licence Holder and Designated Premises Supervisor and South Wales Police prior to the hearing and an agreement had been reached with the Designated Premises Supervisor to limit the band numbers to 3 artists, secondary glazing would be installed to the front windows of the premises facing Commercial Street within 4 weeks or sooner, live music to finish at 2300 hours and after such time all music would be switched off and all live music must go through the limiter.

The Legal Officer advised that the Sub-Committee would need to make a decision on the matters which had been agreed by the parties.

The Neighbourhood Services Officer informed the Sub-Committee that she had investigated complaints of noise nuisance from the premises since April 2016. She stated that the premises licence authorises the provision of live music until 0000 hours

and recorded music until 0200 hours. The Premises Licence Holder is David Lippiatt and the Designated Premises Supervisor is Nathan Phillip Kyte. Between 23 January and 24 September 2013 and 1 and 28 July 2014 the premises were closed. The Neighbourhood Services Officer informed the Sub-Committee that the Department had received a complaint of noise nuisance due to recorded and live music on 20 April 2016 and as a result of investigations an Abatement Notice was served on Nathan Kyte, the Designated Premises Supervisor, a copy of the Abatement Notice was sent to the Premises Licence Holder, David Lippiatt.

She stated that the Department had attempted to work with the DPS during the course of the investigation in order to resolve the matter, which involved the use of the Department out of hours service in order to advise the DPS of when the music was causing a problem in order that they could make the necessary adjustments to noise level for the music. This involved a considerable amount of officer time and cost to the Department. Officers had witnessed amplified music from the premises at the complainant's property on a number of occasions in May and June 2016. In July 2016, the Department informed the DPS of the intention to prosecute due to a further 4 breaches being witnessed in July 2016. The Neighbourhood Services Officer stated that she had agreed not to take formal action on 14 August 2016. However the complainant contacted the Department that the music from the premises had returned to being a regular problem. She stated that on 3 September 2016 a further breach was witnessed and a letter was sent to the DPS advising of the intention to review the premises licence, a copy was also sent to the Premises Licence Holder.

The Legal Officer questioned the proximity of the residential properties to the premises. The Neighbourhood Services Officer explained that there are flats opposite the premises and there are houses on Neath Road, approximately 50 yards away.

The Sub-Committee requested assurances that the limiter would be set and that new windows would be installed at the premises. The Neighbourhood Services Officer informed the Sub-Committee that she believed that 4 weeks for the installation of new windows at the premises was reasonable. She stated that she required the applicant to submit in writing the steps they will take to limit noise nuisance from the premises as proposed new conditions to the licence. She also stated that the proposed condition to limit bands to 3 artists will reduce noise from the premises and for music to cease at 2300 hours. The Premises Licence Holder informed the Sub-Committee that the works agreed will be carried out in full and that secondary glazing will be installed within days. He stated that there were 2 hot spots in the calendar namely, Christmas and New Year within the next 4 week period and it was intended that all works will be carried out at the premises.

The Sub-Committee questioned how limiting bands to 3 artists would be quieter than having bands with more artists. The Neighbourhood Services Officer explained that larger bands had played at the premises and the limiter had not been able to cope due to an insufficient number of points to connect all the equipment required by the band. The Sub-Committee asked whether bands containing more than 3 artists had been booked to play at the venue. The DPS stated that he would have to check the bookings made for Christmas and the New Year. The Premises Licence Holder confirmed the DPS will check the diary of bookings and inform Licensing accordingly. The DPS informed the Sub-Committee of the music played at the premises, in that live bands play on Saturdays and Sundays, karaoke on Thursdays, a jam night on Tuesdays and recorded music on Fridays. The Sub-Committee questioned the number of people who attend the premises each night. The DPS stated that 30 – 40 attend on Tuesdays and Thursdays, 100 people attend on Fridays, 120 on Saturdays and 40 on Sundays, with different age groups attending each night.

The Premises Licence Holder thanked the Sub-Committee for the opportunity to hold discussions with Shared Regulatory Services and South Wales Police which had enabled them to agree a way forward for the premises.

PC Rowlatt thanked the parties for negotiating terms. She stated that the representations of South Wales Police support the application for the review of the premises licence by Shared Regulatory Services. She stated that the Sub-Committee must not only have regard to the Home Office Guidance but also the Council's "Statement of Licensing Policy" in the prevention of public nuisance. PC Rowlatt informed the Sub-Committee that the hearing was down to a specific issue of live music being played at the premises causing noise nuisance to neighbours and anti-social behaviour to the wider community. She stated that public nuisance had been reported against customers who had attended the premises and then caused anti-social behaviour in the wider community. This behaviour had a wider effect on the community as the customers leave the premises and continue with their behaviour outside in the street.

PC Rowlatt stated that South Wales Police need to have regard to public nuisance and certain measures need to be put in place to prevent anti-social behaviour incidents happening reducing the negative effect this has on the local community. She also stated that the current DPS had been in this position since 21 October 2015 and since that time; there had been two licensing visits conducted, resulting in a verbal warning being issued and a written warning. PC Rowlatt informed the Sub-Committee of the measures it could consider, namely the removal of the current DPS, however this is a family run business and it was unlikely that taking this step would make a difference. The premises had been the subject of two noise nuisance abatement notices in the past. She believed that the measures offered by the Premises Licence Holder and DPS appear to be good measures.

PC Rowlatt informed the Sub-Committee that South Wales Police had been called to an incident on 11 June 2016 at the same date and time complaints had been received by Shared Regulatory Services of noise nuisance. She stated that an occurrence had started inside the premises and escalated outside following a large group of rugby people being asked to leave the premises. Their behaviour continued to escalate outside the premises resulting in people fighting in the street. PC Rowlatt presented witness statements from the victim of an assault and a witness to that assault which took place on 11 June 2016 where the situation had become increasingly aggressive where people had ended up fighting in the street, which not only had affected other people in the street but had stopped traffic in the vicinity. She stated that the DPS had behaved in an exemplary manner in assisting the victim of the assault. PC Rowlatt informed the Sub-Committee that conditions were required to reduce public nuisance from the premises by reducing the hours and noise levels from live music and ensuring that door staff and security measures are put in place. She believed that the removal of the word "and" prior to the words "Bank holidays" in Condition 1 would deal with public nuisance from the premises.

In response to a question from the Sub-Committee if relation to CCTV facilities at the premises, PC Rowlatt confirmed the premises had a fully functioning CCTV system which covered the inside and outside of the premises and is suitable for the premises. The Sub-Committee questioned whether the perpetrator of the assault had been drinking at the premises. PC Rowlatt could not clarify whether the perpetrator of the assault and rugby team had or had not been drinking at the premises but stated that they should not have been allowed entry into the premises due to their levels of intoxication.

The Team Manager Licensing asked PC Rowlatt to clarify the amended wording of Condition 1. PC Rowlatt clarified that the amended wording to Condition 1 should read "Friday, Saturday and Sunday prior to Bank holidays.

The DPS clarified that the perpetrator of the assault did not come from the premises, but the victim of the assault who was part of the rugby group had been at the premises.

The Premises Licence Holder informed the Sub-Committee that he hoped the matters which had been the subject of negotiation would win through and what was being proposed would be robust enough. He stated that the DPS had 22 letters of support for the premises from residents who live closer to the premises than the complainant who now had their property on the market. He also stated that the business provides employment for a number of local people. He hoped the proposals would be robust enough to enable the premises to keep trading and that the Neighbourhood Services Officer would visit the premises once the works to the premises had been completed.

The Sub-Committee requested sight of the letters of support from residents.

The DPS informed the Sub-Committee that they had already spent £3,000 on insulation works to the premises. The Premises Licence Holder informed the Sub-Committee that a noise expert had identified that the windows at the premises as a weakness for the escape of sound and that secondary glazing would be installed within days, measurements would then be taken for the installation of new units thereafter. PC Rowlatt commented that it was unusual for new evidence to be introduced at this point in the hearing such as the letters of support from residents and reports from a noise expert and that the Responsible Authorities should have been made aware of this prior to the start of the hearing. She requested an adjournment for the Responsible Authorities to consider this information. The Sub-Committee requested information as to the proximity of the residential properties to the premises and whether the letters of support had been drafted by the DPS for residents to sign. The DPS confirmed that they had posted the letters of support through residents' letter boxes in order that they could sign and return them to the premises. The Premises Licence Holder stated that one letter returned to the DPS supported the complainant. PC Rowlatt commented that the letters of support were not addressed to individuals. The Neighbourhood Services Officer informed the Sub-Committee that she did not object to the letters of support being part of the review.

The Sub-Committee adjourned at 11.15am and reconvened at 11.34am.

In response to a question from the Sub-Committee, PC Rowlatt stated that she had no objection to the letters of support being submitted as part of the review. The Neighbourhood Services Officer questioned the relevance of the letters of support as they show where the residents, how they would be affected by noise nuisance and are they customers of the premises. The Neighbourhood Services Officer stated there had been 10 breaches of the licensing objectives at the premises.

The Sub-Committee would consider the letters of support when they retire.

The Sub-Committee questioned the sort of glazing proposed at the premises. The DPS confirmed that the present windows are double glazed; the Perspex proposed would be 4mm in thickness making the windows triple glazed. The Premises Licence Holder informed the Sub-Committee that other measures had been discussed with the noise expert, namely, curtains being put on the downstairs windows to absorb sound. It was also proposed to installing Perspex on the upper floor, formerly used as a living area again to absorb sound.

The Sub-Committee questioned the specification and materials to be used at the premises. The Neighbourhood Services Officer stated that the specification of glazing had not been discussed with the Premises Licence Holder and DPS. The Team Manager Licensing informed the Sub-Committee that the specification of works to be undertaken to the windows would need to be the subject to approval by the Neighbourhood Services Team. The Senior Environmental Health Officer informed the Sub-Committee that the Perspex units would be a temporary measure until such time as the new units had been installed. The Premises Licence Holder informed the Sub-Committee that the Perspex units would be installed within days prior to new windows being installed. He stated that the DPS records the decibel levels from the premises each night. The Neighbourhood Services Officer commented that she was unaware that a noise expert had looked at noise reductions measures upstairs at the premises. The Premises Licence Holder stated that the noise expert had identified windows downstairs and upstairs that need replacing which would have the benefit Perspex being installed in the interim and some material to absorb noise would also be used. The Neighbourhood Services Officer commented on the validity of the noise expert's report and stated that a noise expert would look at the premises in its entirety when looking at noise reduction measures being implemented.

The Senior Environmental Health Officer queried the qualifications of the noise expert. The DPS stated that the noise expert lives in Maesteg and he had undertaken work to the Bird in Hand. The Neighbourhood Services Officer stated that she was under the impression that a noise expert had carried out testing at the premises and asked whether he had provided a report on noise break out of the building. The DPS stated that the noise expert had commented verbally. The Senior Environmental Health Officer asked whether the noise expert had received the specifications of the windows in order to attenuate noise. The DPS informed the Sub-Committee of the decibel levels he had recorded outside the complainant's property which was 61 decibels and 82 decibels outside the premises during live music. The Senior Environmental Health Officer stated that it was the responsibility of the DPS and Premises Licence Holder to present information of the noise mitigating measures they proposed to put in place. The Legal Officer informed the Sub-Committee that any amended conditions to the licence would require the approval of Shared Regulatory Services. The Senior Environmental Health Officer stated that no information on any noise mitigating measures proposed at the premises had been received until immediately prior to the hearing.

The Sub-Committee questioned why the DPS and Premises Licence Holder were now prepared to undertake work at the premises when they had previously ignored requests made by Shared Regulatory Services. The DPS informed the Sub-Committee that they had spent £3,000 on acoustics which had been suggested by the Neighbourhood Services Officer. He stated that no correspondence had been received from the Neighbourhood Services Officer for 4 months. He also stated that they would have undertaken works to the premises if they were aware of the need to do so and before the service of the Abatement Notice.

The Premises Licence Holder informed the Sub-Committee there had been a stand-off between the parties prior to this morning where the parties had met and agreed a way forward. He confirmed that the Perspex will be installed within the next few days and that he wished to work with all parties. He asked what would be the acceptable noise level outside the complainant's house. The Neighbourhood Services Officer stated that what needed to be considered was whether music from the premises was audible inside the complainant's house. She confirmed that she had been present in the complainant's house when the music from the premises was audible to the extent that she could clearly identify the words to the songs played. The Premises Licence Holder asked what would be the acceptable noise if the windows to the premises were kept shut. The Neighbourhood Services Officer stated that there was not a great deal of difference in

noise levels if the windows at the premises were open or closed and she had found the music to be audible when the windows at the premises were closed. She advised that a level of music needed to be found which they had control over. The DPS stated that they had been provided with a noise reading by the Neighbourhood Services Officer and had set the limiter to that reading.

The Sub-Committee questioned why complaints were made if the DPS believed that the noise was not as audible as the Neighbourhood Services Officer had made out. The Premises Licence Holder stated that he had spoken to Nathan Kite, the DPS and Paul Kite regarding the noise levels and wanted to see the measures agreed with the parties work. In response to a question from the Legal Officer as to why agreement had now been reached, the Premises Licence Holder stated that it had been due to the fact that all parties were present to allow negotiations to take place and regretted that the negotiations had not taken place earlier and that he believed that he was a third party to these proceedings. In response to a question from the Team Manager Licensing, Mr Lippiatt confirmed that he is the Premise Licence Holder. The Team Manager Licensing commented that as Premises Licence Holder he is a party to these proceedings and the review application had been served on him and was given 28 days in which to respond to those papers. The Team Manager Licensing asked whether he was aware of his responsibilities as Premises Licence Holder. The Premises Licence Holder stated that he had spoken to the DPS and Paul Kite in relation to the review on a number occasions and had been copied in to correspondence. The Legal Officer explained that as Premises Licence Holder he was not a third party to the review application and that responsibility rests solely with him. The Premises Licence Holder stated that he owns 17 public houses and has a portfolio of residential and commercial properties.

PC Rowlatt stated that assurances were required that conditions which had been negotiated were kept to. She asked the DPS why did the complainant advise that music at the premises between 6 - 8 August 2016 had not caused a problem, when on 14 August 2016 the noise nuisance had given rise to a complaint. The DPS stated that a 6 piece band had been booked some 12 months earlier and were a band on tour from Italy. He stated that he was made aware of the noise nuisance by the Neighbourhood Services Officer who had advised that she would let the matter slide. The Neighbourhood Services Officer stated that she had not witnessed the noise and had let it go as they had demonstrated that they were able to control the live music. PC Rowlatt requested an explanation as to why did he allow the event on 14 August 2016 involving the 6 piece band from Italy to take place and what mitigating measures had been put in place. The DPS stated that 2 members of the band had to play through their own equipment as there were insufficient points to play through the limiter. The DPS also stated that it was not a late night as the band had started to play in the afternoon. The DPS stated that the premises now had the benefit of a 24 channel mixer and all bands play through the limiter. The DPS stated that bands playing at the premises would play through the limiter and doors would be closed. The Neighbourhood Services Officer stated that the comment in relation to everything going through the limiter had been made by the DPS and 2 members of the band used their own equipment. The DPS stated that 2 members of the band connected their speakers to their system at the premises. He informed the Sub-Committee that he would email all bands playing at the premises in the future with a set of conditions they must adhere to.

PC Rowlatt questioned why there was noise nuisance on 14 August 2016 if everything went through the limiter. The DPS stated that at its peak the level was 99.3 decibels, the reading on the limiter was 93.8 decibels. He stated that the limiter would not allow anything above 94 decibels to come out of the speakers.

PC Rowlatt questioned why a further breach occurred on 3 September 2016. The DPS stated that it was dependent on the number of people at the premises and the weather.

He stated that sound from the premises would be quieter with 120 persons than 100 persons. The Neighbourhood Services Officer stated that the number of people at the premises would not have an effect of noise levels. The DPS believed that with less people inside the sound would travel further and rebound off the walls. The Senior Environmental Health Officer stated that there would be some sound absorption with more people being there, which would minuscule, but people would not reflect sound. She also stated that with the windows being closed noise levels inside would not vary and there would not be a huge reduction in noise levels.

PC Rowlatt referred to the previous breaches of abatement notices and asked what can be done to prevent noise nuisance again from the premises. The Premises Licence Holder stated that if they had a chance to carry on they would make it work. The DPS stated that irrespective of the measures they had put in previously complaints continued to be received. The DPS stated that since the limiter was set no complaints had been received. The Premises Licence Holder stated that they believed they had safeguards in place to prevent further noise nuisance. The Neighbourhood Services Officer stated that a decision had been taken to stop investigating further in the run up to the review as they had visited the premises 10 times in 8 months and officers had verified the complaints. She also stated that the review had been deferred in August 2016 to allow the Premises Licence Holder and DPS to come up with an action plan. The Premises Licence Holder and DPS were notified on 3 September 2016 of a breach of the abatement notice. The DPS stated that they had worked with the Neighbourhood Services Officer and spent a lot of money on the premises.

The Chairperson invited all parties to sum up.

The Neighbourhood Services Officer stated that she had demonstrated how she had provided assistance and support to the DPS and Premises Licence Holder in resolving the problems of live music causing a noise nuisance and had provided advice to the DPS to achieve an acceptable level of music being played at the premises. This advice was ignored by the DPS and the music level had returned to the original level. She stated that the Department had received a complaint from one individual resulting in the Department visiting in total on 10 occasions to set an acceptable noise level for the limiter provided by the DPS to control the noise. The DPS had disconnected the limiter as the bands could not play the level set, which the DPS did knowing that this would cause disturbance to the complainants as the noise would be above the level agreed. The DPS did not take additional steps following the limiter being disconnected.

The Neighbourhood Services Officer stated that the DPS following a second visit adhered to the noise levels and was able to demonstrate they could have live music without causing a nuisance to nearby residential properties. However the music returned to a level which was unacceptable and causing a nuisance. The Department then served an abatement notice on the DPS and had not taken enforcement action lightly.

The Neighbourhood Services Officer stated that the Department had entered into negotiations with the DPS and Premises Licence Holder prior to the hearing wherein, an agreement had been reached to limit the band numbers to 3 artists, secondary glazing would be installed to the front windows of the premises facing Commercial Street within 4 weeks or sooner and live music to finish at 2300 hours and after such time all music would be switched off.

PC Rowlatt reiterated her thanks for the mediation which had taken place with the DPS and Premises Licence Holder immediately prior to the hearing to agree 3 new conditions to be attached to the licence. She stated that the role of the Responsible Authorities is to work with licence holders, but when a breach of the licensing objectives occurs they

have to act. She believed that Shared Regulatory Services had been fair with the DPS and Premises Licence Holder as the premises is a live music venue and its removal would close the premises down. She stated that the proposed new conditions were an opportunity for the DPS and Premises Licence Holder to work with the Responsible Authorities to remedy the noise nuisance from the premises. She also stated that the proposed conditions were an opportunity to support the business but at the same time giving it one last chance.

The Premises Licence Holder informed the Sub-Committee that neither he nor the DPS were guilt free and that this had been the first review for him to have been involved with and one which had been a big learning curve. He stated that he should have met the DPS prior to now to discuss the noise nuisance problems at the premises. He also stated that they would cooperate with the Responsible Authorities in accepting the proposed new conditions. He stated that they have acted sooner by installing new windows and resolved the issues with the noise levels. He informed the Sub-Committee that he was happy with music finishing at the premises at 2300 hours and that he would enforce that as Premises Licence Holder and if it was not complied with would remove the DPS. He stated that the unique selling point of the venue is as a live music venue which appeals to an older market.

The DPS informed the Sub-Committee that the premises works with the community and allows the sound system to be used by Maesteg Town Council at Christmas free of charge.

The Sub-Committee questioned whether the other licensed premises in the vicinity have live music. The Neighbourhood Services Officer stated that there could have been occasions when live music was played from both venues, but the other premises are no longer open. The Senior Environmental Health Officer stated that it had been established that the noise nuisance came from the King Alfred. The Neighbourhood Services Officer stated that previously the King Alfred did not have live music to the extent it did now and the premises were being in a new way.

The Sub-Committee adjourned at 12.38pm and re-convened at 14.35pm.

RESOLVED: That the Sub-Committee heard an application for a review of the premises licence of The King Alfred Inn, 1 Commercial Street, Maesteg.

The Sub-Committee has heard representations from the applicant being the Neighbourhood Services Department, the Police and the Premises Licence Holder and the DPS.

The Sub-Committee allowed the parties half an hour before the hearing commenced to discuss the matter, all parties advised the Committee that they have reached an agreement in this matter that all parties were satisfied with as follows:-

1. All Bands that play live music have a maximum of 3 artists.
2. The Premises Licence Holder to install secondary glazing to the two windows facing Commercial Street, within 4 weeks.
3. All Live Music to cease at 11pm.
4. All live music must go through the limiter.

The Sub-Committee has heard that the Neighbourhood Services Officer has continually tried to work with the DPS of these premises to abate the noise nuisance. The Sub-Committee has heard that as a result of the noise nuisance witnessed by the officer emanating from these premises an Abatement notice was served on the DPS on the 11th May 2016. A copy of the notice was also served on the Premises Licence Holder.

The Neighbourhood Services Officer has witnessed a number of breaches of the abatement notice and has now reported those breaches for prosecution. The Officer gave evidence that on one occasion the DPS disconnected the noise limiter knowing that he would breach the abatement notice.

The Sub-Committee have decided on hearing the evidence from all parties that the DPS of these premises is responsible for the noise nuisance at these premises and has not taken sufficient steps to abate the nuisance, however the Sub-Committee has taken on board the fact that the Neighbourhood Services Officer has agreed prior to the meeting to an number of conditions which she believes will abate the nuisance at these premises.

On this basis the Sub-Committee has decided in order to promote the licensing objectives to add new conditions on the licence. The Sub-Committee has decided that the following conditions should be added to abate the noise and public nuisance at these premises:-

1. The Premises Licence Holder to install secondary glazing to the two windows facing Commercial Street, within 6 weeks. The secondary glazing must be approved by the Neighbourhood Services Officer as appropriate to abate the noise nuisance.
2. All Live Music to cease at 11pm.
3. All live music must go through the limiter.

The Sub-Committee has considered all the conditions suggested by the Police on page 24 of the report and do not consider that these conditions relate to the public nuisance at the premises and will not assist in abating the existing noise nuisance at the premises and have decided that they will not be added to the Licence.

The meeting closed at 2.40 pm